

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7289

BILL NUMBER: HB 1441

NOTE PREPARED: Jan 10, 2009

BILL AMENDED:

SUBJECT: Numerous changes to Planning and Zoning Law.

FIRST AUTHOR: Rep. Pearson

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill eliminates review of zoning decisions by certiorari, and establishes a judicial review procedure. It makes other changes to the planning and zoning law, and repeals superseded statutes concerning vacation of plats, commitments, and writ of certiorari.

The bill provides procedures for vacation of a plat, including any recorded covenants. It prohibits, for two years after an unsuccessful vacation petition, a subsequent vacation proceeding regarding the same property and relief.

The bill allows a Plan Commission to grant waivers from the subdivision control ordinance, and provides that a Plan Commission may allow or require a commitment to be made.

The bill makes changes regarding: (1) qualifications of citizen members of Plan Commissions and Boards of Zoning Appeals; (2) appointment of alternate members to all Plan Commissions (current law allows only an Area Plan Commission to appoint alternate members); (3) disqualification of Plan Commission and Board of Zoning Appeals members due to financial interest or bias; (4) publication of the zoning ordinance; and (5) commitments and conditions.

Effective Date: July 1, 2009; January 1, 2010.

Explanation of State Expenditures:

Explanation of State Revenues: *Court Fee Revenue:* This bill may increase civil actions due to its provisions for judicial review of zoning decisions. The impact on civil actions is indeterminable. A civil costs

fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Boards of Zoning Appeals:* Resulting from the provisions regarding judicial review for certain decisions, Boards of Zoning Appeals are required by this bill to provide board records to petitioners upon written request. These records will be transmitted to the appropriate court by the petitioner. This bill allows Boards of Zoning Appeals to charge petitioners for the costs associated with preparing copies and transcripts for transmittal to the court. This provision should offset administrative costs associated with preparing records for requests by petitioners.

Plan Commissions and Plat Committees: This bill allows an alternate procedure for vacation of a plat, and requires that Plan Commissions adopt rules for conducting hearings concerning vacation of a plat. The Plan Commission or Plat Committee must hear petitions, and then either approve or disapprove the request. The bill also requires Plan Commissions or Plat Committees to provide copies of their decisions to the County Recorder. Any fiscal impact resulting from these provisions is indeterminable because it will be directly related to the number of hearings conducted.

Background Information - This bill provides that the following final decisions may be reviewed by Plan Commissions and Plat Committees:

- (1) approval or disapproval of the vacation of all or part of a plat; and
- (2) imposition of a condition on approval of the vacation of all or part of a plat.

The bill also provides that the vacation of all or part of a plat may include the vacation of any recorded covenants, but only if:

- (1) the platted area is within an area needing redevelopment and the covenant vacation would promote a recovery of property values in the area needing redevelopment by allowing or encouraging normal development and occupancy of the platted area;
- (2) the covenant vacation is needed to secure for the public adequate light, air, convenience of access, or safety from fire, flood, or other danger; or
- (3) the covenant vacation is needed to lessen or avoid congestion in the public ways.

Finally, the bill prohibits a subsequent vacation proceeding regarding the same property and relief for two years after an unsuccessful vacation petition.

Explanation of Local Revenues: *Court Fee Revenue:* If the number of civil actions filed is affected, local governments would be impacted due to receiving revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected:

Local Agencies Affected: Boards of Zoning Appeals; Plan Commissions; Plat Committees.

Information Sources:

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